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IN THE
Supreme Court of the United States
OCTOBER TERM, 1978

No. 79-21

**FRANK ALONZO, WILLIAM DENNEY, SCOTT DUBS,
STEVE EDWARDS, PAUL FAWVER, and PAUL HALM,**

Petitioners,

vs.

VILLAGE OF ROMEOVILLE,

Respondent.

**PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT**

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**PETITION FOR WRIT OF CERTIORARI TO THE
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Petitioners, Frank Alonzo, William Denney, Scott Dubs, Steve Edwards, Paul Fawver and Paul Halm, respectfully pray a Writ of Certiorari issue to review the judgment entered on April 9, 1979, by the United States Court of Appeals for the Seventh Circuit, in its cause No. 78-2164.

OPINIONS BELOW

On July 31, 1978, the Honorable Joseph Sam Perry of the United States District Court for the Northern District of Illinois, Eastern Division, denied petitioners' motion for summary judgment that the Village of Romeoville residency ordinance of July 20, 1977, requiring petitioners to relocate into the Village of Romeoville was in violation of their constitutional rights under the Fifth and Fourteenth Amendments and in violation of the United States Constitution, Article I, Section 10, relating to impairment of contracts by retrospective application.

In his order of July 31, 1978, the Honorable Joseph Sam Perry granted the respondent's cross-motion for summary judgment which cross-motion for summary judgment legally theorized that the petitioners had no vested rights in their outside residency which had been authorized by a prior Romeoville ordinance of January 2, 1975, and that, as a result, there could not have been a denial of any constitutional rights under the Fifth and Fourteenth Amendments of the United States Constitution nor impairment of contract via retrospective application of the newly created Romeoville residency ordinance of July 20, 1977. (Order of July 31, 1978, of the Honorable Joseph Sam Perry, is reprinted herein as Appendix A).

On April 9, 1979, the United States Court of Appeals for the Seventh Circuit, Chicago, Illinois, affirmed Judge Perry's ruling, which Court of Appeals' unpublished order is reprinted herein as Appendix B.

JURISDICTION

1. The federal question was raised by the petitioners' complaint to the effect that the newly created residency ordinance of the Village of Romeoville of July 20, 1977, requiring the petitioners to relocate from their outside residencies into the Village of Romeoville within a period of two years from the adoption of that newly created ordinance violated the petitioners' constitutional rights pursuant to 42 U.S.C. 1983 (Appendix C), the due process and equal protection clauses under the Fourteenth Amendment of the United States Constitution, the ex post facto and impairment of obligations of contract clauses of Article I, Par. 10, Cls. 1, of the Constitution of the United States, 28 U.S.C. Pars. 2201, 2202, 1331 and 1343.

2. The petition for certiorari was filed within ninety days after the entry of the judgment by the United States Court of Appeals for the Seventh Circuit, Chicago, Illinois, on April 9, 1979.

QUESTION PRESENTED

1. Does the retrospective application of the July 20, 1977, Romeoville ordinance requiring residency for all police officers of the Village of Romeoville within a period of two years from the adoption of the said ordinance impair the vested and/or contractual rights of the petitioners in violation of the due process and impairment of contract clauses of the United States Constitution?

CONSTITUTIONAL PROVISIONS INVOLVED

Amendment V:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

Amendment XIV:

"Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Article I, Section 10:

"No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal, coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility."

STATEMENT OF THE CASE

On January 2, 1975, the Village of Romeoville passed a residency ordinance which provided as follows:

"Section 14-1: All policemen other than the Chief shall reside within 15 miles of the corporate limits of the Village of Romeoville."

On July 20, 1977, the Village of Romeoville passed the following amending residency ordinance:

"Section 14-1: All commissioned police officers of the Village shall reside within the corporate limits of the Village of Romeoville, Will County, Illinois. Any present commissioned officer who resides outside the corporate limits of the Village shall be required to be a resident of the Village of Romeoville within two years after the date of the adoption of this ordinance. All probationary police officers shall be required to reside within the corporate limits of the Village on the date such officer receives his commission."

"Section 14-5: A commissioned police officer of the Village shall not be eligible for promotion to the next highest rank unless the officer resides within the corporate limits of the Village."

Prior to July 20, 1977, the petitioners had established residences within the 15 mile corporate limits of the Village of Romeoville.

A complaint for declaratory judgment and other relief was filed on October 13, 1977, by the petitioners challenging the July 20, 1977, Romeoville ordinance as violating the due process clause and the impairment of contract clause of the *United States Constitution* in that the July 20,

1977, Romeoville ordinance was impairing a vested and/or contractual relationship of employment between them and the Village of Romeoville by retrospectively requiring the petitioners to establish a Romeoville residency within a period of two years for the purpose of continuing in their employment as Romeoville police officers and for the purpose of requiring such residency before promotions to the next rank were to be granted.

On July 31, 1978, the Honorable Joseph Sam Perry denied the petitioners' motion for summary judgment that the newly created Village of Romeoville residency ordinance of July 20, 1977, violated petitioners' constitutional rights of due process and impairment of contract by requiring them to relocate from their outside residency into the Village of Romeoville within two years from the adoption of the July 20, 1977, Romeoville residency ordinance and further granted the respondent's cross-motion for summary judgment upholding the validity of the July 20, 1977, Romeoville residency ordinance.

On August 28, 1978, a notice of appeal was filed by the petitioners.

On April 9, 1979, the United States Court of Appeals for the Seventh Circuit, Chicago, Illinois, affirmed the Honorable Joseph Sam Perry's judgment of July 31, 1978, by holding that the *Andre v. Village of Maywood*, 561 F.2d 48 (7th Cir. 1978), decision as being applicable, in this instance, which decision held that no vested contractual obligations existed between the Village of Maywood and its non-resident employees and that both *Andre* and the matter at hand merely established eligibility requirements for applicants of employment.

REASONS FOR GRANTING WRIT

On March 22, 1976, in the *Fraternal Order of Police Youngstown Lodge #28 et al, appellees, v. Hunter, Mayor et al, appellants*, 49 Ohio App. 2d 185 (1975), the United States Supreme Court denied a Writ of Certiorari on a docketed numbered case of 75-846.

In the *Youngstown* decision, at issue, was a residency rule of January 20, 1972, which had been promulgated by the Civil Service Commission of the City of Youngstown which rule provided as follows:

“Any officer or employee not residing within the city limits of Youngstown, except as otherwise provided in Rule IV, Section 5, is subject to dismissal from service of the city.”

Analyzing the aforesaid rule, the Ohio Court of Appeals held that policemen who had entered into the civil service prior to January 20, 1972, were not required to relocate into the City of Youngstown on the basis that the January 20, 1972, rule as applied to them violated their constitutional right under the due process clause of the United States Constitution and was retroactive in its operation thereby violating the impairment of contracts clause of the United States Constitution.

By denying the Writ of Certiorari, the United States Supreme Court upheld the position of the Ohio Court of Appeals that a residency rule requiring relocation as applied to employees employed prior to the creation of such a rule was in violation of due process and impairment of contracts under the United States Constitution.

On January 9, 1978, the United States Supreme Court denied a Writ of Certiorari in case No. 76-609 involving *Frank Andre et al v. Board of Trustees of the Village of Maywood, Cook County, Illinois et al.*

In that decision, the United States Court of Appeals for the Seventh Circuit, Chicago, Illinois, held that the Village of Maywood could create a residency ordinance requiring non-resident employees to relocate into the Village of Maywood if those employees desired to continue in their employment.

By denying the Writ of Certiorari, the United States Supreme Court upheld the *Andre* decision to the effect that villages may create ordinances compelling their employees to relocate into villages when such employees had established outside residency prior to the creation of such residency ordinances requiring such relocation.

As a consequence, there is a conflict which the United States Supreme Court must clarify in that there are two denials of Writs of Certiorari which express opposite views on the question of whether a policeman employed prior to a residency ordinance requiring him to relocate within the boundaries of the village must so locate.

Under *Ill. Rev. Stat.*, Chap. 24, Cities & Villages, Sec. 3-14-1, cities and villages less than 500,000 have the power to enact ordinances providing for outside residency for firemen and policemen as is substantiated by the following language from that section:

“Except for incorporated towns which have superseded a civil township, municipalities having a population of not more than 500,000 are hereby authorized and empowered to adopt ordinances which allow firemen and policemen to reside outside of the corporate

limits of the municipality by which they are employed both at the time of appointment and while serving as such firemen and policemen.”

On the basis of the aforesaid *Ill. Rev. Stat.*, Chap. 24, Cities & Villages, Sec. 3-14-1, the Village of Romeoville enacted an ordinance on January 2, 1975, which provided “All policemen other than the Chief shall reside within 15 miles of the corporate limits of the Village of Romeoville.”

When the Village of Romeoville enacted the January 2, 1975, residency ordinance, it established a vested and/or contractual right in the petitioners in terms of their outside residency pursuant to the stated law of Illinois as expressed in *Ill. Rev. Stat.*, Chap. 24, Cities & Villages, Sec. 3-14-1.

The application of the *Andre* decision to the petitioners is inappropriate in that the language of the Romeoville ordinance of 1975 differs drastically from the Maywood ordinance, since the Romeoville ordinance of 1975 by express and unequivocal language provides that the petitioner, have an *absolute* and *unconditional* right to reside within 15 miles of the corporate limits of the Village of Romeoville while the Maywood ordinance, prior to amending the residency requirement for residing within the Village of Maywood, provided as follows:

“In hiring new employees, preference will be given Maywood residents—all other factors being equal. (sic) If qualified village residents do not apply, then non-residents may be employed in any position.”

In analyzing the language of the aforesaid Maywood ordinance, the *Andre* Court stated:

“Section I(B)(2) does not grant an express approval or authorization to Maywood employees to live

outside Maywood. Whatever that ordinance established with respect to hiring preferences, we conclude that it did not serve to create the vested contractual right claimed by appellants here. Nothing in the language of Section I(B)(2) indicated the creation of an *absolute unconditional* right in plaintiffs to live outside Maywood."

As a consequence, the Romeoville petitioners have a different standing than their counterparts in *Andre* in that they had been permitted to reside within 15 miles of the corporate limits of the Village of Romeoville with the result that the Village of Romeoville had passed an ordinance on July 20, 1977, which indeed violated the constitutional rights of the petitioners relating to the due process clause of the *United States Constitution* and violated the impairment clause of the *United States Constitution* pertaining to contracts.

In distinguishing the *Andre* case from that of the petitioners, the petitioners are supported in their position by the *Youngstown* decision which involves the same issue of whether policemen previously employed prior to a newly created residency requirement compelling relocation applies to such policemen.

As the *Youngstown* Court held, such a newly created residency requirement is not applicable as it violates the due process clause and impairment of contracts clause under the *United States Constitution* in that it infringes upon vested rights.

In this instance, the petitioners have a stronger argument of vesting than the *Youngstown* police officers in that there was a specific Romeoville ordinance of 1975 which permitted them to reside outside the Village of Romeoville.

Such permission constituted a contract; to destroy the validity of such a contract would be contrary to equity and good conscience in terms of *Detroit Police Lieutenants and Sergeants Association v. Detroit*, 56 Mich. App. 617, 224 N.W. 2d 728 (1974).

In the *Detroit* case police personnel were provided with written permission to live outside the corporate limits of the City of Detroit prior to June 1968.

In June of 1968, an ordinance requiring residency of city employees was passed; the Court held that it would not apply to the plaintiffs who had secured written permission from the commissioner to live outside the corporate limits of Detroit on the basis of equity and good conscience.

Are the petitioners herein any different than the police officers in the *Detroit* decision?

The legal positions as expressed by the *Ohio* and *Detroit* decisions are not contradicted by *McCarthy v. Philadelphia Civil Service Commission*, 424 U.S. 645 (1976), nor by *Detroit Police Officers Assn. v. Detroit*, 405 U.S. 950 (1972).

In the *McCarthy* matter, the employees had voluntarily accepted employment subject to a pre-existing and continuous residency requirement; in this instance the petitioners had not accepted their employment as police officers with the Village of Romeoville on the basis of a pre-existing and continuous residency ordinance requiring them to reside in Romeoville; on the contrary, the Village of Romeoville specifically by express language provided the petitioners with a contractual vesting of rights to live within 15 miles of its corporate limits; the petitioners accepted their employment in terms of the Village of Ro-

meoville 1975 ordinance which provided for outside residency.

With reference to the *Detroit* case, the thrust of the legal argument was not based upon the violation of any vested right or any other fundamental constitutional right except that the petitioners were challenging the residency requirement on the basis that it violated the equal protection clause of the *United States Constitution* in that the residency requirement was applied more stringently to them than other employees; furthermore, in the *Detroit Police Officers Assn.* matter, the residency requirement was not retrospective as the Romeoville ordinance of 1977 is in its application to the petitioners.

Consequently, the unpublished order of April 9, 1979, of the United States Court of Appeals, Seventh Circuit, Chicago, Illinois, affirming the Honorable Joseph Sam Perry's judgment that the *Andre v. Village of Maywood* decision was indistinguishable from that of the petitioners has been refuted by this Petition for Writ of Certiorari and that the violation of the constitutional rights of due process and impairment of contracts exists as to the petitioners by the application as to them of the newly created residency requirement of the Romeoville ordinance of July 20, 1977.

CONCLUSION

The writ should issue to the United States Court of Appeals for the Seventh Circuit, in that the United States Court of Appeals should have reversed the Honorable Joseph Sam Perry and should have sustained the petitioners' legal position that the July 20, 1977, Romeoville ordinance requiring the petitioners to relocate from their outside residency into the Village of Romeoville violated their constitutional rights under the due process and impairment of contracts clauses of the United States Constitution.

Respectfully submitted,

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APPENDIX

APPENDIX A

UNITED STATES DISTRICT COURT
Northern District of Illinois
Eastern Division

Name of Presiding Judge,
Honorable Joseph Sam Perry

Cause No. 77 C 3802

Date July 31, 1978

Alonzo, et al. vs. Village of Romeoville

ORDER

This cause comes on upon plaintiffs' motion for summary judgment and defendant's cross-motion for summary judgment. The court has read and considered said motions and the memoranda of the respective parties and finds that defendant's cross-motion is well taken and should be granted.

Accordingly, it is Ordered that plaintiffs' motion for summary judgment be and the same is hereby denied; that defendant's cross-motion for summary judgment be and the same is hereby granted; that judgment in favor of the defendant and against the plaintiffs be and the same is hereby awarded; and that plaintiffs shall take nothing by this action.

/s/ J. S. Perry

APPENDIX B

UNITED STATES COURT OF APPEALS

For the Seventh Circuit
Chicago, Illinois 60604

(Argued April 9, 1979)

Before

Hon. PHILIP W. TONE, *Circuit Judge*
Hon. WILLIAM J. BAUER, *Circuit Judge*
Hon. DUDLEY B. BONSAL, *Senior District Judge**

FRANK ALONZO, WILLIAM DENNEY, SCOTT DUBS,
STEVE EDWARDS, PAUL FAWYER and PAUL
HALM.

Plaintiff-Appellants,
No. 78-2164 vs.

VILLAGE OF ROMEOVILLE,
Defendant-Appellee.

**Appeal from the United States District Court for the
Northern District of Illinois, Eastern Division**

No. 77-C-3802
J. SAM PERRY, Judge.

ORDER

As announced from the bench at the conclusion of oral argument, the judgment of the district court is affirmed.

* The Honorable Dudley B. Bonsal, Senior District Judge of the United States District Court for the Southern District of New York, is sitting by designation.

The case is governed by *Andre v. Village of Maywood*, 561 F.2d 48, 50-51 (7th Cir. 1978). In that case a municipal ordinance permitting the employment of nonresidents as village policemen, firemen, etc., “[i]f qualified Village residents did not apply,” was held not to create vested contractual obligations of the village to nonresident employees. We view the ordinance in the case at bar, which permits the employment by the village of persons living within 15 miles of the village borders, as indistinguishable in principle from the ordinance in *Andre*. Neither ordinance created vested rights; both merely established eligibility requirements for applicants for employment.

AFFIRMED.

APPENDIX C

1.1 action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

AUG 4 1979

MICHAEL RODAK, JR., CLERK

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Respondent.

RESPONDENT'S BRIEF IN OPPOSITION TO
PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

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**RESPONDENT'S BRIEF IN OPPOSITION TO
PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT**

QUESTION PRESENTED

Whether an amendment of an ordinance by a municipality making its residency requirement more stringent presents an issue of *ex post facto* legislation which this Court should review by writ of certiorari.

ORDINANCES INVOLVED

Ordinance, Village of Romeoville,
Chapter 1, Article 14, Section 14-1

POLICE AND FIRE RESIDENCY REQUIREMENTS

BE IT ORDAINED BY THE PRESIDENT AND MEMBERS OF THE BOARD OF TRUSTEES OF THE VILLAGE OF ROMEOVILLE, WILL COUNTY, ILLINOIS, that:

Section 14-1: All policemen other than the Chief shall reside within 15 miles of the corporate limits of the Village of Romeoville.

Section 14-2: All firemen other than the Chief shall reside within 3 miles of the corporate limits of the Village of Romeoville.

Section 14-3: The Police Chief and the Fire Chief shall be residents of the Village of Romeoville within six (6) months after their appointment as Chief.

Section 14-4: There shall be no residency requirement to be eligible to take an examination for original appointment to either the Police or the Fire Department.

Ordinance, Village of Romeoville, Chapter 1, Article 14

AN ORDINANCE AMENDING POLICE AND FIRE RESIDENCY REQUIREMENTS

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF ROMEOVILLE, WILL COUNTY, ILLINOIS, THAT CHAPTER 1, ARTICLE 14, SHALL BE AMENDED AS FOLLOWS:

Section 14-1: All commissioned police officers of the Village shall reside within the corporate limits of the Village of Romeoville, Will County, Illinois. Any present

commissioned officer who resides outside the corporate limits of the Village shall be required to be a resident of the Village of Romeoville within two years after the date of the adoption of this ordinance. All probationary police officers shall be required to reside within the corporate limits of the Village on the date such officer receives his commission.

Section 14-5: A commissioned police officer of the Village shall not be eligible for promotion to the next highest rank unless the officer resides within the corporate limits of the Village.

STATEMENT OF THE CASE

In January, 1975, the Village of Romeoville enacted an ordinance which required that its police officers reside within fifteen miles of the municipality's corporate limits. In July, 1977, this ordinance was amended to require that police officers reside within the municipality's corporate limits. The amending ordinance gave police officers a two-year period in which to establish such a residence but required that a residence within the municipality's corporate limits was required for promotion to the next higher rank. Petitioners thereafter filed a suit in the Federal District Court for the Northern District of Illinois asserting that having been police officers of the Village of Romeoville when the prior ordinance was in effect, they acquired vested or contractual rights thereunder upon which the amending ordinance unconstitutionally infringed.

The District Court granted summary judgment to the Village of Romeoville, which decision was affirmed, *per curiam*, by the United States Court of Appeals for the Seventh Circuit. *Alonzo v. Village of Romeoville*, No. 78-2164, decided April 9, 1979.

REASONS FOR DENYING THE WRIT

The proposition that the imposition of a residency requirement by a municipality upon its employees does not raise a federal Constitutional question is supported by all cases at the federal appellate level. Petitioners' contention that rights enjoyed under a municipal ordinance are vested and survive the amendment of that ordinance is directly controverted by a decision of the Illinois Supreme Court, which decision has been affirmed by this Court.

I.

RESIDENCY REQUIREMENTS FOR MUNICIPAL EMPLOYEES DO NOT RAISE CONSTITUTIONAL QUESTIONS.

Andre v. Village of Maywood, 561 F.2d 48 (7th Cir. 1977), cert. den. 434 U.S. 1013 (1979), involved, in principle, the same issue as is presented by the instant case. In the *Andre* case, the Court of Appeals for the Seventh Circuit had before it a newly enacted residency requirement for employees of the Village of Maywood. Quite clearly, prior to Maywood's enactment of this residency requirement, nonresidents could be employed by it, and continue to reside outside the municipality's corporate limits.

The original ordinance of the Village of Maywood provided:

In hiring new employees, preference will be given Maywood residents—all other factors being equal. If qualified Village residents do not apply, then nonresidents may be employed in any position. [Emphasis added.]

Andre v. Village of Maywood, 561 F.2d at 50. This ordinance was amended on August 14, 1975, by providing that all department heads and administrative personnel had to establish residences within Maywood within two years, and all other employees, including the police and fire departments, members of which brought suit in *Andre*, must establish residences within four years. 561 F.2d at 49.

The decision in *Andre* reviewed numerous previous opinions, including this Court's opinions in *McCarthy v. Philadelphia Civil Service Commission*, 424 U.S. 645 (1976); *Detroit Police Officers Association v. City of Detroit*, 385 Mich. 519, 190 N.W.2d 97 (1971), appeal dismissed for lack of substantial federal question, 405 U.S. 950 (1972), and concluded that "residency restrictions imposed upon municipal employees as a continuing condition of their public employment have been upheld by numerous courts". [Emphasis added]. 561 F.2d at 50. Thus, in *Andre*, municipal employees who had quite properly lived outside the municipality's corporate limits prior to the enactment of the residency requirement were, after such enactment, required to move or lose their jobs. This result was not unique to *Andre*. *Wright v. City of Jackson*, 506 F.2d 400 (5th Cir. 1975); *Hattiesburg Firefighters Local v. Hattiesburg*, 263 So. 2d 767 (Miss. S.C. 1972); *Salt Lake City Firefighters Local v. Salt Lake City*, 22 Utah 2d 115, 459 P. 2d 239 (1969).

There is obviously no practical difference between requiring a municipal employee who had previously been entitled to live anywhere outside the municipality to move within the corporate limits, and the compulsion placed upon an employee who had previously been permitted to reside within fifteen miles of the municipality to move within the corporate limits. Petitioners here,

however, would have this Court find that the latter ordinance creates vested rights. They cite no authority for this.

In the case of *Detroit Police Lieutenants and Sergeants Association v. Detroit*, 56 Mich. App. 617, 224 N.W. 2d 728 (1974), the court did not enforce a residency requirement against certain police employees who had previously applied for and been granted permission to reside outside of the City of Detroit. However, the court did not hold that enforcement in such an instance would violate the federal Constitution but, rather, that the residency requirement should not be enforced in such an instance as a matter of "equity and good conscience". 56 Mich. App. at 623. This Court should not review by certiorari questions as to what is or is not equitable under varying legislation and factual circumstances.

In *Fraternal Order of Police, Youngstown Lodge No. 28 v. Hunter*, 49 Ohio App. 2d 185, 360 N.E.2d 708 (1975), the court was concerned with the tests to be applied to a residency requirement. The majority held that the imposition of a residency requirement on police officers "must meet the test of 'compelling governmental interests'" in order to survive a constitutional challenge, 49 Ohio App. 2d at 201, whereas the dissent was of the opinion that the test should be whether "such a rule bears a reasonable relation to a valid state purpose", 49 Ohio App. 2d at 215.

To the extent that the *Hunter* case can be interpreted as holding that the imposition of a residency requirement on policemen hired prior to the enactment of such a requirement is retrospective legislation infringing on a vested right in violation of the federal Constitution, it is in error. This argument was struck down in *Andre v. Village of Maywood*, 561 F.2d 48, 51 (7th Cir. 1977), cert. den. 434 U.S. 1013 (1979), wherein the court stated:

Even if [the prior ordinance allowing hiring of non-residents] did create some interest in plaintiffs, that interest would have been *contingent* upon the *anticipated continuance* of the ordinance. *Such an interest does not amount to a vested right.* [Emphasis added.]

Under Illinois law, conditions of public employment set by statute do not rise to the level of contractual vested rights. *Dodge v. Board of Education*, 364 Ill. 547, 5 N.E.2d 84 (1936). Affirming the *Dodge* case, this Court held that such an interpretation does not violate the federal Constitution. *Dodge v. Board of Education*, 302 U.S. 74 (1937). See also *Groves v. Board of Education*, 367 Ill. 91, 95-6, 10 N.E.2d 403 (1937). This Court has held that for terms of employment set forth in a statute to become a vested right, the language of and the circumstances surrounding the legislation must clearly and unequivocally show such a legislative intent. The Court found such in the case of *Indiana ex rel. Anderson v. Brand*, 303 U.S. 95, 105 (1938). However, in the oft-cited *Anderson* case, this Court noted that the legislation in question spoke repeatedly and pointedly of a contract, that the word "contract" appeared several times in the legislation, and that the entire tenor of the act was contractual in nature. Such provisions and terms are obviously lacking from the ordinance of the Village of Romeoville, which is in question here. *Taliaferro v. Dykstra*, 434 F.Supp. 705 (E.D. Va. 1977); *McCann v. Retirement Board*, 331 Ill. 193, 162 N.E. 859 (1928); *Beutel v. Foreman*, 288 Ill. 1060, 123 N.E. 270 (1919); *Blough v. Ekstrom*, 14 Ill. App. 2d 153, 144 N.E.2d 436 (1957).

Petitioners have been unable to produce any federal authority in support of their allegation that they have acquired vested rights which have been violated. They

have also been unable to show any authority in support of their contention that their rights have been violated under Illinois law. All federal authority, and the vast majority of state authority, allows the imposition of residency requirements upon public employees. *Andre v. Village of Maywood*, 561 F.2d 48 (7th Cir. 1977), cert. den. 434 U.S. 1013 (1979), cases cited at page 50. It is thus clear that there has been no violation of Petitioners' federal or state rights and that there are no conflicting federal or state decisions on the question presented by this case which would compel the issuance of a writ of certiorari.

CONCLUSION

For the foregoing reasons, the Petition for a Writ of Certiorari should be denied.

Respectfully submitted,

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